

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NEW YORK

-----X  
BLACK LOVE RESISTS IN THE RUST, et al.,

*Plaintiffs,*

Case No. 1:18-cv-719

- vs -

CITY OF BUFFALO, N.Y., et al.,

*Defendants.*

-----X

**NOTICE OF CONSENT MOTION FOR ORDER MODIFYING  
PROTECTIVE ORDER GOVERNING PRODUCTION OF ATTORNEYS' EYES ONLY  
CONFIDENTIAL MATERIALS & INCORPORATED MEMORANDUM OF LAW**

Plaintiffs, with the consent of Defendants, move this Court pursuant to Local Rule 7 of the Local Civil Rules of Western New York and Rule 26(e) of the Federal Rules of Civil Procedure for an Order modifying the Protective Order Governing Production of Attorneys' Eyes Only Confidential Materials (ECF No. 54) entered by the Court on January 24, 2020 (the "Protective Order"). The basis for this Motion is a change in applicable law. In support of the Motion, Plaintiffs submit the following incorporated Memorandum of Law.

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S CONSENT MOTION FOR  
ORDER MODIFYING PROTECTIVE ORDER GOVERNING PRODUCTION OF  
ATTORNEYS' EYES ONLY CONFIDENTIAL MATERIALS**

The Protective Order and the Opinion & Order of December 19, 2019 (ECF No. 51) that occasioned its entry extended attorneys-eyes only protection to Buffalo Police Department Internal Affairs Division (IAD) documents produced by Defendants on account of N.Y. Civil Rights Law §50-a ("Section 50-a"). During its period of enactment, Section 50-a prevented disclosure of police officer personnel and disciplinary records and without either the express, written consent of the police officer or a court order. *Id.* § 50-a(1) (repealed 2020).

Since the entry of the Protective Order, Section 50-a was repealed in its entirety by the New York Legislature. *See* N.Y. S. B. 8496 (2020). As a result, police disciplinary records, including the IAD records at issue here, are no longer exempt from public disclosure. N.Y. S. B. § 8496 § 2.

In light of the repeal of the Section 50-a repeal, the Parties agree that attorneys-eyes only protection for the IAD records is no longer warranted and that the records should receive confidential treatment instead. Accordingly, Plaintiffs together with Defendants hereby move this Court for an Order modifying the Protective Order as set forth in the Proposed Order submitted herewith.

Dated: October 12, 2021

Respectfully submitted,

/s/ A. Chinyere Ezie

A. Chinyere Ezie  
CENTER FOR CONSTITUTIONAL  
RIGHTS  
666 Broadway, 7<sup>th</sup> Floor  
New York, NY 10012  
212-614- 6467  
cezie@ccrjustice.org

Joseph Keleman  
Keisha Williams  
WESTERN NEW YORK LAW CENTER  
Cathedral Park Tower  
37 Franklin Street, Suite 210  
Buffalo, NY 14202  
Tel: (716) 828-8415  
Fax: (716) 270-4005  
jkeleman@wnylc.com  
kwilliams@wnylc.com

Claudia Wilner  
Edward Krugman  
Anjana Malhotra  
NATIONAL CENTER FOR LAW AND  
ECONOMIC JUSTICE  
275 Seventh Avenue, Suite 1506  
New York, NY 10001  
212-633-6967  
wilner@nclej.org  
krugman@nclej.org  
malhotra@nclej.org  
,

*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 12, 2021, a true and correct copy of the foregoing document was served on Defendants through their counsel of record:

Robert E. Quinn  
Assistant Corporation Counsel  
65 Niagara Square, 11th Floor  
Buffalo, New York 14202  
(716) 851-4326  
rquinn@city-buffalo.com

Dated: October 12, 2021

/s/ A. Chinyere Ezie

A. Chinyere Ezie  
CENTER FOR CONSTITUTIONAL  
RIGHTS  
666 Broadway, 7<sup>th</sup> Floor  
New York, NY 10012  
212-614- 6467  
cezie@ccrjustice.org